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ABSTRACT

The emphasis in recent British educational legislation (primarily the 1988 Education Act) has been on the creation of an "internal market" to stimulate improvements in educational outcomes and provide efficiency and accountability. The internal market mechanism allows schools to manage their own budgets and personnel and to create competition by extending parental choice of schools. The creation of a market system within education will increasingly disadvantage pupils with special educational needs. The notion of equality of educational opportunity has been sacrificed for a system where over-subscribed schools have the power to choose pupils and less popular schools have to accept those pupils rejected by other schools. Special needs children may be less attractive to schools competing for pupils to enhance their test score rankings. Four annual surveys have been conducted since 1989 on the impact of Local Management of Schools and other aspects of recent legislation on provision for pupils with special educational needs. Their findings indicate that the pressures of reduced central funding and increased demands on schools to demonstrate good results has meant that more pupils than ever are being given Statements of Special Educational Needs (SEN), who receive some services from the local education authority. There is a lack of clarity and a fragmentation of responsibilities for children with SEN. (Contains 28 references.) (JDD)

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Markets, Competition and Vulnerability: Some effects of recent legislation on children with special educational needs.

by

Jennifer Evans and Ingrid Lunt

ED 374 622

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1. Introduction

The emphasis in recent British educational legislation has been on the creation of an 'internal market' as an attempt to stimulate improvements in educational outcomes and to provide efficiency and accountability. The internal market is used as a mechanism, on the one hand, to free schools from the bureaucracy of the Local Education Authority (LEA) by allowing schools to manage their own budgets and personnel, and on the other hand, to create competition by extending parental choice of schools, thus requiring schools to compete with each other for pupils in order to obtain funding.

This paper examines the role and effects of the 'internal market' on provision for a section of the school population who, for one reason or another, are 'vulnerable' within the education system. Some of them fall within a group with widely differing problems who are, nevertheless, identified as having 'special educational needs'. Others are not necessarily classified as such, but experience difficulties within the education system, either by reason of social or behavioural problems. It is our contention that such pupils will not be well served by 'the market' and we analyse the ways in which this group of children may be disadvantaged by the recent changes in the funding, organisation and accountability of the current system. Section 2 examines the concept of the market and the ways in which it has been applied to education. Section 3 discusses the changing perception of the rights of children with special educational needs. Section 4 describes the legislative framework within which provision for pupils with special educational needs is made. Section 5 reports the results of four surveys, carried out annually by the authors since 1989, to gather data on the impact of Local Management of Schools (LMS) and other aspects of recent legislation on provision for pupils with special educational needs.

2. Markets, Competition and Vulnerability

The creation of internal markets within the public sector has been a feature of many advanced industrial nations in recent years. (Lawton 1992). Public services have been criticised as being 'producer dominated' and unresponsive to the needs of clients. An internal market, it is argued, will make public services more accountable to those who use them and finance them through their taxes. Prime Minister John Major's Citizen's Charter is an attempt to provide the citizenry with a written document

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which spells out what their rights and responsibilities are. (These documents are not, however, exhaustive). Nevertheless, the main features of the various Charters which have been produced for Patients, Passengers and Parents (among others) emphasise the right of citizens to have more choice within an internal market.

Galbraith (1992) has argued that the assumption that, in a market economy, business enterprise is in the service of the consumer is mistaken.

> "In fact, the consumer is very substantially in the service of the business firm...consumer wants are shaped to the purposes and notably to the financial interests of the firm." (P. 134)

Ranson and Thomas (1989) have contrasted "consumer democracy" with "social democracy". The former is interested in *private and individual* benefit, the latter in *collective* benefit because education is a collective good, "a good, that is, in which we are all interested because of its pervasive significance." (p 74) In this interpretation of the place in society of the education system, the more benefit there is for **all** children (including those who find it difficult to compete in the marketplace) the more benefit there will be for society as a whole. To introduce 'diversity' and therefore selection, will mean that children from disadvantaged backgrounds are likely to be allocated an education which is less well-resourced and less well thought of (by society).

Jonathan (1989) argues that education is a 'positional good'. That is, it has exchange value as well as inherent value. Its exchange value is socially relative. That is, what counts for an individual is not the *absolute* amount he or she holds, but how much *more* he or she holds than others. Therefore, children who are forced, by lack of available alternatives, to receive their education in schools which are less effective than others (and the educational market was created to make these disparities explicit and inevitable) will be disadvantaged.

Ranson elaborates his ideas in a later paper (1992) in which he describes the nature of the market:

> "The market is formally neutral but substantively interested..... Yet of course the market masks its social bias. It elides but also reproduces the inequalities which consumers bring to the marketplace. Under the guise of neutrality, the institution of the market actively confirms and reinforces the pre-existing social order of wealth, privilege and prejudice. ***The market, let us be clear, is a crude mechanism of social selection and is intended as such.***
>
> (Ranson 1992, p 72 (our emphasis))

Housden (1992) has pointed out that the notion of 'parental choice' within the educational market place is an illusory one. He argues that the more

popular schools will choose their pupils not vice versa, and that left to market forces, the 'weaker players' (i.e. parents of vulnerable children) will have a more restricted choice of schools. Schools looking after their financial interests will not want to accept pupils who require extra support as this would involve extra costs. Also, in looking to expand its market share, a school will not want to accept pupils who may depress its score on published league tables of test and examination results, or who might, through disruptive behaviour, damage the reputation of the school among potential consumers. He suggests that schools' concern to protect and enhance their market share will lead to higher rates of truancy, exclusion and segregation.

Our argument, then, is that the creation of a market system within education, together with specialisation and diversity in the school system, will increasingly disadvantage pupils with special educational needs, especially those pupils whose needs arise because of social disadvantage - those whom Housden (op.cit) refers to as vulnerable children. The notion of equality of educational opportunity has been sacrificed for a notion of 'diversity' in a system in which parents can 'express a preference' but where over-subscribed schools have the power to choose pupils and less popular schools have to accept those pupils which other schools have rejected.

3. Changing perceptions of the rights of children with special educational needs.

The Warnock Report, published in 1978, provided the watershed in a shift in values and philosophy in relation to pupils with special educational needs in Britain and beyond. This paralleled developments in other developed countries in relation to equal opportunities and human rights. Following the 1971 Education Act which moved responsibility for children with profound handicaps from health to education and gave all children the right to be educated, the Warnock Report stated that

> 'the purpose of education for all children is the same; the goals are the same...they are, first to enlarge a child's knowledge, experience and imaginative understanding and thus his awareness of moral values and capacity for enjoyment; and secondly to enable him to enter the world after formal education is over as an active participant in society and a responsible contributor to it capable of achieving as much independence in it as possible' (Warnock Report, 1.4).

The Warnock Report suggested that as many as **20%** of pupils might at some time in their school career have special educational needs which might require additional support and that **2%** of children would have severe and complex needs which would be likely to require long-term support. This small minority of children should have a **'record'** of need or **'Statement'** of special educational needs. This Statement might function as

a 'contract' between an LEA and child (and parent) to resource special educational needs at an **individual** level.

When contemplating the expense of educating those children with the most profound handicaps, the Report goes on to suggest that 'no civilised society can be content just to look after these children; it must all the time seek ways of helping them however slowly towards the educational goals we have identified' (ibid, 1.7). The 1981 Act provided the legislation implementing the main recommendations of the Warnock report and embodied much of the philosophy and values underlying it.

4. The legislative framework

The 1981 Act

'The 1981 Act has been widely acclaimed by many educationalists as a progressive and enlightened piece of legislation which has established the field of special educational needs as an important aspect of education' (Norwich 1992). The law gave pupils with special educational needs the right to mainstream schooling (with certain provisos), it gave parents the right to be involved and consulted over decisions about their children and it gave LEAs the responsibility to identify and make provision for the group of pupils considered to be most needy or vulnerable. It has thus provided the framework for special educational provision and the principles for policy for children with special educational needs (SENs) in England and Wales over the past ten years.

As mentioned above, the 1981 Act gave LEAs considerable duties and responsibilities: the duty to identify and assess those pupils with special educational needs 'which call for the LEA to determine the provision', the duty to make and maintain a Statement in respect of those pupils and the duty to arrange for the special educational provision to meet those needs. The Act also required school boards of governors to 'use their best endeavours' to ensure that any pupils with SENs in their school had the special educational provision they required.

However, there exists a lack of clarity over the definition of 'special educational needs' contained in the 1981 Act and in particular at what point a child will require a formal Statement of needs (i.e. a formal contract with the LEA setting out an entitlement to extra resources). This has led to a widespread acknowledgement of the need for greater guidance over which pupils require Statements. This fact together with the increasing use of Statements to allocate resources to individual pupils has led to concern over the distribution of resources between those children whose special needs are met by general resources targeted at the school (the '18%') and those who are given individual Statements (the '2%') (Audit Commission/HMI 1992, Dessent 1987, Norwich 1992, Wedell 1990). In the years following its implementation, the 1981 Act produced a substantial shift in the priority placed on meeting the needs of children

with SEN. Although there was no Government funding for implementation (in contrast to the funding given in the USA and a number of European countries which implemented similar legislation during the period) there were substantial increases in spending on special educational needs in a number of LEAs. Many developed extensive support services for pupils with SEN to support mainstream schools in their task of providing for a wider range of pupil need and ability thus furthering the goal of integration of students with SEN into mainstream schools. (Goacher et al 1987). The Government signalled a priority for training by Circular 3/83 which diverted LEA funding into one-term in-service (OTIS) courses for teachers with responsibility for SEN. The majority of LEAs reduced the proportion of children they educated in segregated settings, some substantially (Swann 1991). Although the Act was permissive or facilitative rather than prescriptive (Welton & Evans 1986), the principle of integration of pupils with SEN into the mainstream was embodied in law.

The 1988 Act

The 1988 Act has introduced substantial changes into the organisation, nature and governance of education in England and Wales. The legislation has shifted the control of education to schools and governing bodies on the one hand and to central Government on the other. Thus although LEAs still retain duties and responsibilities for pupils with special educational needs under the 1981 Act, their ability to fulfil these duties has been severely curtailed by the legislation.

The Government reiterated through the 1988 Act the principle of entitlement to a broad and balanced curriculum which, echoing Warnock's views about the goals of education:

> 'a) promotes the spiritual, moral, cultural and mental development of pupils at the school and of society; and
>
> b) prepares such pupils for the opportunities, responsibilities and experiences of adult life'.
>
> (EA 1988 para 2)

Through the introduction of a national curriculum and assessment arrangements, local management of schools (LMS), open enrolment and the possibility for schools to opt out of LEA control and become self-governing (Grant Maintained), the Government introduced what Maclure has described as "arguably the most important and far-reaching piece of education law-making since 1944" (McClure 1988). However, the introduction of competition and market forces into education threatens to deny full access to the curriculum to children whose special educational needs make them vulnerable within the educational market place. Pupils with SEN have, by definition, greater need of resources to enable full access to the National Curriculum. They may not perform as successfully

as other children in the assessment tests, the results of which are published in national league tables. . They may therefore prove less attractive to schools competing for pupils to enhance their position in the league tables. Furthermore, while open enrolment may permit parental choice for some, it is likely to limit choice of school for parents of children with SEN. In the market place of education, it becomes more likely that it will be schools who are enabled to choose pupils rather than *vice versa*. The introduction of the possibility for some Grant Maintained Schools to select pupils on the basis of their intellectual ability means that pupils with SEN are unlikely to find a place at such schools, therefore restricting their choices even more.

Local management of schools has radically changed the way in which schools are financed, promoting the Government's explicit intention of securing maximum delegation of financial and managerial responsibilities to schools and their governing bodies.

> "Local Management of Schools represents a major challenge and a major opportunity for the education service. The introduction of needs-based formula funding and the delegation of financial and managerial responsibilities to governing bodies are key elements in the Government's overall policy to improve the quality of teaching and learning in schools." (Circular 7/88).

The process of funding schools predominantly upon the basis of pupil numbers, thereby rewarding financially the most 'popular' schools, is unlikely to be of benefit to the more vulnerable pupils in the system.

The thrust of the legislation is to secure maximum delegation of funding and management responsibilities to schools, with a limited number of services provided centrally by the LEA, and only where this is shown to be efficient and effective. The intention, as mentioned above, is thus to transfer control of education from local authorities to schools and governing bodies while at the same time claiming considerable power and control for central government.

Since the passing of the 1988 Act, the Government has demanded progressively increasing amounts of delegation with corresponding reduction in the amount which LEAs are able to retain to fund central services. The most recent consultation document (DFE 1992) proposes to increase the amount delegated to schools to 90% of the Potential Schools Budget(PSB),[1] thereby severely curtailing central LEA services, including those for supporting pupils with SEN. LEAs have to delegate funds to schools on the basis of a formula in which 80% of the funding is allocated on the basis of 'pupil-related factors' (mainly the age of the pupils). The

[1]The Potential Schools Budget (PSB) is the amount remaining from an LEA's total spending on schools after the following items have been deducted:
Capital expenditure; Special Grants; Home to School Transport; and, School Meals.

remaining 20% of the formula can contain some weightings for Special Educational Needs and for Social Needs. But, as will be discussed later, LEAs have found some difficulties in producing criteria by which to allocate this extra funding and schools are often unclear about the amount and purpose of the extra funding they receive. The overriding reliance on pupil numbers as the determinant of school resources introduces a competitive element which pupils with SEN may find hard to overcome. If pupils are to be thought of as 'bags of cash' or 'vouchers', then those with special needs are likely to require considerable enhancement or 'value added' as inducement for admission to a school.

5. Findings from LEA Surveys 1989-1992

Because of our concern over the potential effects of the 1988 Act and what followed it on provision for special educational needs, we decided to carry out an annual survey of LEAs, starting in 1989, and also to hold an annual conference and information exchange for those in LEAs concerned with the management and organisation of special educational provision. The survey results and case studies of LEA provision have been published in a series of monographs (Evans and Lunt 1990, Lunt and Evans 1991, Evans and Lunt 1992). We are now engaged in a more extensive research project on the effects of LMS on SEN provision which has been funded by the Economic and Social Research Council. In the present paper, we present the findings from the four LEA surveys we have undertaken since 1989, together with some commentary on the implications of the findings.

Changes in the pattern of provision

Special schools and units

Over the four years of the survey there has been a trend towards increasing the number of on-site units (resource bases) for pupils with special educational needs, whereas the numbers of off-site units and special schools remains relatively static. Between 1990 and 1991, 45% of LEAs had reduced the numbers of special schools and increased the numbers of units. Between 1991 and 1992, 34% of LEAs reported an increase in the number of on-site units, whereas the number of schools and off-site units remained the same in 90% of LEAs. The Audit Commission (op cit) reported that there are large numbers of surplus places in special schools which LEAs have been slow to remove. This means that, overall, there has been an *increase* in the amount of segregated provision available in some LEAs. It may be that, in future, the continuing presence of special schools will undermine the trend towards integration and that more pupils, particularly those with emotional and behavioural difficulties and moderate learning difficulties whom schools find most difficult to deal with, will be placed in special schools and units.

Pupils with Statements

We have noted (Evans and Lunt (1990), Lunt and Evans (1991) Evans and Lunt 1992)) an increase in the proportion of pupils with Statements since 1990. In that year it was 2% of the total school population. In 1991 it was 2.2% and in 1992 it was 2.4%. Of our 1992 sample of LEAs, 80% reported an increase in both the number and percentage of pupils with Statements compared with the previous year. This trend seems set to continue. Several of the sample LEAs reported that they had a large number of Statements due to be completed. One LEA in our 1992 survey, with 500 Statemented pupils reported that it had another 269 pupils whose assessments had been completed who were waiting for the Statements to be produced - an increase of over 50% in one year. Authorities also reported an increase in referrals for Statements, so the upward trend in Statementing looks set to continue. This indicates that schools are finding it increasingly difficult to meet the needs of children with learning difficulties from within their own resources and are using the Statement as a method of obtaining extra resources from the LEA. That is the *tolerance* or *coping thresholds* of schools are reducing.

Placement of pupils with Statements.

There have been a number of debates over the years since the 1981 Act was implemented about whether integration of pupils with special educational needs into the mainstream has been taking place. Will Swann has been monitoring trends in placement over the past 10 years. In his latest report (Swann 1992) he has noted an increase in the placement of children aged 5-10 in special schools. Our 1992 data show that there has been an increase in the numbers of pupils in special schools in 50% of our sample LEAs. There has been an increase in the numbers of pupils with Statements in mainstream schools in 86% of LEAs. Some 60% of LEAs reported a decrease in the numbers of pupils in residential special schools.

The findings of our surveys indicate that overall, more pupils are being identified (some might say labelled) as pupils with special educational needs and that resources for these pupils are being allocated through Statements. Thus, although more pupils with Statements are being provided for within mainstream, overall the numbers attending special schools is not falling significantly. Part of the buoyancy of special school numbers may be due to the decreasing use of non-LEA residential placements. Pupils who formerly might have been placed outside the LEA are now being educated in the LEA's own special schools.

The report by the Audit Commission (1992) - 'Getting in on the Act' reports a decrease in the proportion of pupils educated in special schools since 1983 from just over 1.5% to just under 1.5% of the total school population. It appears, therefore, that there has not been a significant shift away from segregated education. More recently, it appears that the trend has been towards *increasing* segregation in some areas.

Exclusions

Recent reports (NUT 1992, DFE 1992c) have indicated that the numbers of pupils excluded from school has risen considerably over the last year. Concern has been expressed that schools are under pressure to discard difficult or "resource-expensive" pupils - those who require extra teacher time, or who may damage a school's image in the competitive world in which they now have to function.

Our 1992 survey confirms this finding: 86% of the authorities reported that exclusions had increased between 1991 and 1992. There was a decrease in 5% of authorities, and in 9% the number of exclusions had remained the same.

The Government's discussion paper on Exclusions (DFE 1992c) reports that the National Exclusions Reporting Scheme (NERS) indicates that there were 3,000 permanent exclusions in the year 1990-1991. Around 12.5% of those excluded had Statements of special educational needs. In terms of provision, 44% of excluded pupils were receiving home tuition and 22% were in special units. Concern was expressed at lengthy delays in completing exclusion procedures and in securing alternative education for excluded pupils.

The report also said that differences in exclusion rates between schools could not be explained by differences in the socio-economic nature of their catchment areas. This would indicate that schools in the more affluent areas where one would expect pupils to present fewer behaviour problems are as likely to exclude pupils as schools working in more difficult areas.

If the number of exclusions continues to rise, it would indicate that schools are becoming less tolerant of pupils with behaviour problems and that the resources to help schools to meet the needs of such pupils are not sufficient to act as an incentive to schools to cope with them.

Support Services

Most LEAs in our 1992 sample (82%) had teams of support teachers available for pupils with sensory impairment. The majority had support teams (varying in size) for behaviour problems (60%) and reading/ learning difficulties (90%). Such teachers would visit schools in the LEA to offer teaching support and advice.However, there is no clear pattern of support in terms of the size of teams or the pattern of their deployment (e.g. the age range they serve, the way they are accessed). 21 different varieties of support teams were reported in our 1992 survey. The size of teams varied from 5 or 6 to 50-60 full-time equivalent teachers (f.t.e.)

There is a question mark over the future of many of these teams, particularly those which support children with learning and behaviour difficulties. The Government has recommended that funding for such

support should be increasingly delegated to schools, and that schools should then decide whether to 'buy in' support from these teams.

This means that LEAs will not be able to retain teams of teachers with SEN expertise to advise schools, to provide in-service training and to provide special programmes of work for pupils with learning and behaviour difficulties in mainstream. These are the pupils who are most vulnerable within the present climate. They may be attending the least popular and least well-resourced schools, in areas where parents are least able to make their views and preferences known. If support to schools to provide for these pupils is withdrawn, it is likely that the numbers requiring Statements will rise. Evidence from latest survey (1992) indicates that in those LEAs where money for support teams had been delegated to schools, the continuance of those teams was in danger.

Individual Support

One of the growth areas in special education has been the emergence in recent years, of teachers and classroom assistants allocated to support individual pupils in mainstream with Statements. Such teachers and classroom assistants are typically employed by the hour and the amount of time allocated to a child is recorded on the Statement. Some LEAs employ teams of teachers whom they deploy as and when needed. Other LEAs leave the arrangements to individual schools. This means that there are great differences between LEAs in terms of the training offered to individual support teachers and classroom assistants and in terms of the management and supervision of the individual support.

The numbers of support teachers ranged from none to 346, and support assistants ranged from none to 326, in the LEAs in our 1992 survey sample. 59% of LEAs reported an increase in the number of individual support teachers and 86% reported an increase in the number of classroom assistants. The responsibility for the management of individual support teachers varied between LEAs. Classroom assistants were more likely to be managed by Headteachers than were individual support teachers.

The division of the management of individual support teachers and classroom assistants between schools and various parts of the central service has the potential for conflict and unclarity. Since the use of this type of resource is growing, LEAs will need to develop training and co-ordination for such support. If management and funding is delegated to schools, the possible consequence will be lack of co-ordination and lack of adequate training.

Some LEAs have 'additionally resourced' one or two mainstream schools within a cluster of eight to ten schools, so that some individual support can be given by one teacher to a group of pupils with Statements from all the schools within the cluster. In such cases, the teachers employed are experienced and well-trained and often are given incentive allowances in

acknowledgement of their expertise. By contrast, there is no guarantee that an individual support teacher of classroom assistant employed for a few hours a week for one child, will be either experienced or trained in SEN.

Support for non-Statemented Special Educational Needs

The allocation of funding for pupils with special educational needs in mainstream who do not have Statements has been the subject of some debate since LMS was implemented. Some LEAs have made no provision for it within their formula funding, maintaining that the per pupil funding is considered to cover the whole ability range within mainstream. Other LEAs have gone to great lengths to target funding to those schools with large numbers of pupils with special educational needs. However, as Tim Lee has pointed out (Lee 1991) there is a considerable amount of confusion among LEAs as to what is meant by *special educational needs*. Some LEAs have used social deprivation as an indicator of special educational needs. Some have carried out a survey of schools (an "audit") (See Lunt and Evans 1991). Others have used scores on standardised reading tests as an indicator of schools with problems. Some use a mixture of several indicators, mostly socio-economic. The list below shows the range of indicators used by LEAs, either alone or in combination to target funding to schools.

Free school meals	63%
Tests	27%
Socio-economic	2%
E2L	2%
Audit	2%
Single parent	2%
Clothing grant	11%
Census data	7%
Council tenant	2%
In care	7%

The debate about the use of social indicators as a proxy for SEN continues. It concerns two main issues. Firstly, are free school meals (for example) an accurate indicator of the level of SEN in a school? Lee (op cit) has argued that evidence from the Educational Priority Areas study by Barnes and Lucas (1974) showed that even the very sophisticated arrangements used by the Inner-London Education Authority to identify disadvantaged areas, did not automatically target funding on the most needy children. The second issue is whether providing extra funding for schools on the basis of the number of pupils identified as having special educational needs rewards 'failing schools'. i.e. targets those schools which are less successful at meeting the needs of their pupils.

This leads us to the issue of how the use of funds for the support of SEN in schools is monitored. Once funds are delegated to schools, there is no

control over what schools spend the money on. The issue of accountability was raised by the Audit Commission (op cit) as a key problem in making provision. Of the LEAs in our sample, 5 (11%) did not monitor the use of the funding. 28 (64%) reported that the Inspectorate monitored, and 4 (9%) used school development plans as a basis for monitoring.

It is clear that some LEAs have not taken the responsibility of monitoring the use of delegated funds for SEN very seriously. The Inspectorate have a decreasing (and more general) role in most LEAs. Special Needs will be part of the remit of the Office for Standards in Education (OFSTED), the national inspectorate, but those inspections only occur every 4 years. The 1993 Education Act has placed a statutory duty on each school to draw up, publish and report on its policy towards all pupils with special educational needs. This, however, relies on the vigilance of school governors and parents to ensure that the policy is adequate and that it is carried out. If special educational needs are not a priority for the governors and parents of a school, there is no guarantee that pupils with SENs in that school will be adequately catered for.

6. Conclusions

The findings of the surveys indicate that the 1988 Act on SEN has increased pressure on LEAs to provide funding for pupils with SEN. The pressures of reduced central funding and increased demands on schools to demonstrate good results has meant that more pupils than ever are being assessed by the LEA and given Statements. The 1993 Education Act envisages a declining role for LEAs in mainstream education and increased delegation of funding. However, the LEA is to retain a role in the identification and assessment of pupils with SEN and in providing statutory services. There is a lack of clarity and a fragmentation of responsibilities for children with SEN. The current legislation leaves many important questions unanswered:

1. Who has responsibility for overall planning of provision for children with SEN?

2. Who has responsibility for monitoring the quality of provision?

3. Who has responsibility for identifying and registering pupils with SEN?

4. How can parents of children with SEN exercise their right to a choice of school for their child?

5. How can there be an equitable distribution of resources when decisions are made on a case by case basis?

6. How can schools be properly called to account for their use of funds allocated for children with SEN?

7. How can provision for children with SEN but without Statements be safeguarded?

8. How will co-ordination between providers of education, health services and social services be achieved, when there is no obvious 'lead' authority?

9. How, in a market situation, can the rights of vulnerable children be protected?

Given our analysis, at the beginning of this paper, that, within a quasi-market such as that set up by the 1988 Education Act, the inequalities of access and provision which already exist within the system will be exacerbated, these questions need to be urgently addressed, not only for the sake of the children who will be disadvantaged, but, given the value of education for society as a whole, for the sake of all of us.

References

Audit Commission/HMI (1992a) **Getting in on the Act.** London:HMSO.

Audit Commission/HMI (1992b) **Getting the Act together. A management handbook for schools and local education authorities.** London:HMSO

Barnes, J. and Lucas, H. (1974) 'Positive Discrimination in Education: Individuals, Groups and Institutions. Chap 3 in Legatt, T. (Ed) **Sociological Theory and Social Research.** London, Sage

DES (1978) **Special educational needs** (Warnock Report) Cmnd 7212, London:HMSO

DES (1988a) **Education Reform Act**. London:HMSO

DES (1988b) Circular 7/88: **Education Reform Act: Local Management of Schools**, London:DES.

DES (1992a) **Choice and Diversity**. White Paper.

Dessent T (1987) **Making the Ordinary School Special .** Lewes: Falmer Press

DFE (1992) **Exclusions. A Discussion Paper.**

Evans, J. & Lunt, I. (1990) **Local Management of Schools and Special Educational Needs.** University of London Institute of Education.

Evans, J. & Lunt, I. (1992) **Developments in Special Education under LMS.** University of London Institute of Education.

Galbraith, JK. (1992) **The Culture of Contentment.** London: Sinclair-Stevenson Ltd.

Goacher, B., Evans, J., Welton, J., Wedell, K. (1988) **Policy and Provision for Special Educational Needs.** London: Cassell

Housden, P. (1993) **Bucking the Market: LEAs and Special Needs.** NASEN

House of Commons Education Select Committee (1987) **Special Educational Needs: Implementation of the Education Act 1981.** HMSO

Jonathan, R. (1989) 'Choice and Control in Education: Parental Rights, Individual Liberties and Social Justice'. **British Journal of Educational Studies.** 27, 4, 321-338

Lawton, S. (1992) 'Why restructure?: an international survey of the roots of reform. **Journal of Education Policy.** 7,2,139-154.

Lee, T. (1991)Finding Simple answers to complex problems: funding special needs under LMS. In Wallace, G. (Ed) **Local Management of Schools.** BERA Dialogue No. 6. Multi-lingual Matters.

Lunt. I and Evans, J. (1991) **Special Needs under LMS.** London: Institute of Education.

Lunt, I. (1990) Local Management of Schools and Education Services in Daniels H. and Ware J. (eds.) **Special Educational Needs and the National Curriculum** Institute of Education and Kogan Page

McClure, S. (1988) **Education Re-formed.** London: Hodder and Stoughton

National Union of Teachers (1992) **NUT Survey on Pupil Exclusions: Information from LEAs.** NUT.

Norwich B. (1992) **Time to Change the 1981 Education Act.** The London File. Institute of Education University of London.

Ranson, S. and Thomas, H. (1989) 'Education Reform: Consumer Democracy or Social Democracy? in Stewart, J. and Stoker, S. (Eds) **The Future of Local Government.** Basingstoke: Macmillan.

Ranson, S. (1992) 'Towards the Learning Society'. **Educational Management and Administration.** 20,2, 68-79

Swann, W. (1985) 'Is the integration of children with special educational needs happening? An analysis of recent statistics. **Oxford Review of Education,** 11, 1.

Swann, W. (1992) **Segregation Statistics English LEAs 1988-91.** CSIE

Wedell, K. (1990) The 1988 Act and current principles of special educational needs in Daniels H. and Ware J. (eds) **Special Educational Needs and the National Curriculum** Institute of Education and Kogan Page

Welton, J. & Evans J. (1986) 'The development and implementation of special education policy: where did the 1981 Act fit in? **Public Administration**, 64, 209-227

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